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UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF LOUISIANA

SHREVEPORT DIVISION

YVONNE DOCKERY

versus

CIVIL ACTION NO. 06-1292
JUDGE TOM STAGG

SHREVEPORT POLICE DEPARTMENT

MEMORANDUM ORDER*

Before the court is a motion filed by the plaintiff seeking entry of default against the defendant. See Record Document 14.

Defaults are generally disfavored in the law and should not be granted merely because a defendant has failed to meet a procedural time requirement. All doubts about the propriety of the default should be resolved in favor of a contest on the merits. See Lacy v. Sitel Corp., 227 F.3d 290, 292 (5th Cir. 2000). “A party is not entitled to a default judgment as a matter of right, even where the defendant is technically in default.” Lewis v. Lynn, 236 F.3d 766, 767 (5th Cir. 2001) (quotation and citation omitted). Default judgment is a drastic remedy resorted to only in extreme situations. See id. “[M]ere delay does not alone constitute

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prejudice," and "the plaintiff must show that the delay will result in the loss of evidence, increased difficulties in discovery, or greater opportunities for fraud and collusion." Lacy, 227 F.3d at 293. In the dispute sub judice, no such showing has been made.

The defendant's answer was due on October 12, 2006. The plaintiff filed a motion for entry of default on October 18, 2006. On that same date, the defendant filed an answer. The defendant acted expeditiously to correct the default and the brief delay could not conceivably have caused prejudice to the plaintiff's case. There is no evidence that the default was willful. Furthermore, the fact that the defendant filed an answer reflects an intent to defend the case on the merits.

Given the factors and the law discussed herein, the court is of the firm opinion that no default should be entered. Accordingly;

IT IS ORDERED that the motion for entry of default (Record Document 14) be and is hereby **DENIED**.

THUS DONE AND SIGNED at Shreveport, Louisiana, this 23rd day of October, 2006.



JUDGE TOM STAGG